### PATENT COOPERATION TREATY



## **PCT**

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference B020534	FOR FURTHER ACTION	See Form PCT/IPEA/416		
International application No. PCT/JP2003/015821	International filing date (day/month/year) Priority date (day/month/year) 10 December 2003 (10.12.2003) 27 December 2002 (27.12.2			
International Patent Classification (IPC) or national classification and IPC C07D 407/06, 317/60, 305/12				
Applicant KANEKA CORPORATION				
This report is the international pre	liminary examination report, established by th	is International Preliminary Examining		

Applica	pplicant KANEKA CORPORATION			
1.	This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.			
2.	This REPORT consists of a total of 4 sheets, in	ncluding this cover sheet.		
3.	This report is also accompanied by ANNEXES, comprising:			
	a. (sent to the applicant and to the International Bureau) a total of sheets, as follows:			
	sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).			
i i	sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.			
	b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).			
4.	. This report contains indications relating to the following items:			
	Box No. I Basis of the report			
Į.	Box No. II Priority			
	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability			
	Box No. IV Lack of unity of invention			
	Box No. V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement			
	Box No. VI Certain documents cited			
	Box No. VII Certain defects in the international app	plication		
	Box No. VIII Certain observations on the internation			
<u> </u>		Date of completion of this report		
Date	of submission of the demand			
	20 July 2004 (20.07.2004)	12 November 2004 (12.11.2004)		
Nam	ne and mailing address of the IPEA/JP	Authorized officer		
Face	simile No.	Telephone No.		

Translation

### INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/JP2003/015810

Box No. 1	
. With ro	regard to the language, this report is based on the international application in the language in which it was filed, unless vise indicated under this item.
	This report is based on translations from the original language into the following language, which is language of a translation furnished for the purpose of:
	international search (under Rules 12.3 and 23.1(b))
	publication of the international application (under Rule 12.4)
	international preliminary examination (under Rules 55.2 and/or 55.3)
furnis	regard to the elements of the international application, this report is based on (replacement sheets which have been shed to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" are not annexed to this report):
$\boxtimes$	The international application as originally filed/furnished
	the description:  , as originally filed/furnished
	pages
	pages 11 of the Authority on
	pages* received by this Authority on
	the claims:
	pages, as originally filed/furnishe
	pages*, as amended (together with any statement) under Article 1
	pages* received by this Authority on
	pages* received by this Authority on
	the drawings: , as originally filed/furnished
	pages
ł	pages* received by this Authority on
	a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
ŀ	
3.	The amendments have resulted in the cancellation of:
" -	the description, pages
1	
1	the claims, Nos.
1	the drawings, sheets/figs
1	the sequence listing (specify):
	any table(s) related to sequence listing (specify):
4.	This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).  the description, pages the claims, Nos. the drawings, sheets/figs the sequence listing (specify): any table(s) related to sequence listing (specify):
* If	item 4 applies, some or all of those sheets may be marked "superseded."



Internationa plication No.

PCT/JP03/15810

Box No. IV	Lack of unity of invention
1 In	response to the invitation to restrict or pay additional fees the applicant has:
	restricted the claims.
	paid additional fees.
	paid additional fees under protest.
	neither restricted nor paid additional fees.
	s Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, to invite the applicant to restrict or pay additional fees.
3. This Auth	ority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
Com	plied with.
not not	complied with for the following reasons:
inventions in the core a drug for (claim 12) Therei groups of	ventions of claims 1-12 can be divided into two groups of inventions, i.e., a group of concerning a method for identifying hepatitis B drug resistance by detecting gene mutations promoter region of the hepatitis B virus (claims 1-11) and a group of inventions concerning the treatment of hepatitis B using nucleic acids of the hepatitis B virus core promoter region.  Fore, this examination finds that the inventions of claims 1-12 comprise the above two inventions, and do not constitute one group of inventions so linked as to form a single ventive concept.
	, and the second se
	·
4. Consequ	ently, this report has been established in respect of the following parts of the international application:
	all parts.
×	the parts relating to claims Nos



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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

PCT/JP03/15810

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement			
Statement     Novelty (N)	Claims	1-11	YES NO
	Claims		NO
Inventive step (IS)	Claims	2-9	YES
,	Claims	1, 10-11	NO
Industrial applicability (IA)	Claims	1-1'1	YES
The second secon	Claims		NO

2. Citations and explanations (Rule 70.7)

Document 1: J. Gastroenterol. Hepatol., 2001, Vol. 16, No. 4, pages 393-8

•Claims 1, 10 and 11

Based on the description in document 1 cited in the international search report, the inventions of claims 1, 10 and 11 lack an inventive step.

Document 1 states that when there is a genetic mutation in the core promoter region of the

hepatitis B virus, its sensitivity to interferons increases.

With respect to claims 1, 10 and 11, this examination finds that after referring to the description in document 1, persons skilled in the art can easily identify drug resistance by checking for genetic mutations in the core promoter region of the hepatitis B virus and can use DNA from the hepatitis B virus core promoter region as a drug for the treatment of hepatitis B.

•Claims 2-9

Document 1 cited in the international search report does not describe the inventions of claims 2-9, and therefore these inventions are novel and involve an inventive step.

Document 1 does not describe the identification of lamivudine resistance by checking for genetic mutations in the core promoter region of the hepatitis B virus, and persons skilled in the art cannot easily conceive of this matter.

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International apparation No.

PCT/JP03/15810

	IN	TEK	NATIONAL PRELIMINARY REPORT ON THE		
Suj	pplem	ental	Box Relating to Sequence Listing		
Co			of Box No. 1, item 2:		
	With	regar	rd to any nucleotide and/or amino acid sequence disclosed in the international this report was established on the basis that of:	application and necessary to the claimed	
	a.	type	of material		
		$\boxtimes$	a sequence listing		
			table(s) related to the sequence listing		
	b.	form	nat of material		
			in written format	·	
		$\overline{\boxtimes}$	in computer readable form		
	c.	time	e of filing/furnishing		
			contained in the international application as filed	1	
		$\overline{\boxtimes}$	filed together with the international application in computer readable form		
			furnished subsequently to this Authority for the purpose of search and/or ex	amination	
		一	received by this Authority as an amendment* on		
2	. 🖂	In a	addition, in the case that more than one version or copy of a sequence listing a furnished, the required statements that the information in the subsequent or ad plication as filed or does not go beyond the application as filed, as appropriate	nd/or table(s) relating thereto has been filed ditional copies is identical to that in the , were furnished.	
3.	Αd		nal comments:		
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			em 4 in Box No. I applies, the listing and /or table(s) related thereto, which for	on part of the basis of the report, may be marked	1
		* If ite	em 4 in Box No. I applies, the listing and /or table(s) relatea thereto, which for rseded".	in pair of the date of the reperty interpret	
		super	-		

#### 特 許 協 力 条 約

PCT

REC'D 0 2 DEC 2004

3450

電話番号 03-3581-1101 内線

特許性に関する国際予備報告(特許協力条約第二章)

(法第12条、法施行規則第56条) [PCT36条及びPCT規則70]

(PC136条及びPC1規則70)				
出願人又は代理人 の書類記号 B020534 今後の手続きに	ついては、様式PCT/IPEA/416を参照すること。			
国際出願番号 PCT/JP03/15821 国際出願日 (日.月.年)	優先日 10.12.2003 (日.月.年) 27.12.2002			
国際特許分類 (IPC) Int. Cl <sup>7</sup> C07D407/06, 317/60, 305/12				
出願人 (氏名又は名称) 鐘 淵 化 学	工 業 株 式 会 社			
1. この報告書は、PCT35条に基づきこの国際予備審査機関で作成された国際予備審査報告である。 法施行規則第57条(PCT36条)の規定に従い送付する。				
2. この国際予備審査報告は、この表紙を含めて全部で	4 ページからなる。			
3. この報告には次の附属物件も添付されている。 a				
□ 補正されて、この報告の基礎とされた及び/又はこの国際予備審査機関が認めた訂正を含む明細書、請求の範囲及び/又は図面の用紙(PCT規則70.16及び実施細則第607号参照)				
□ 第Ⅰ欄4.及び補充欄に示したように、出願時における国際出願の開示の範囲を超えた補正を含むものとこの 国際予備審査機関が認定した差替え用紙				
b 配子媒体は全部で(電子媒体の種類、数を示す)。 配列表に関する補充欄に示すように、コンピュータ読み取り可能な形式による配列表とは配列表に関連するテーブルを含む。(実施細則第802号参照)				
4. この国際予備審査報告は、次の内容を含む。				
<ul><li>※ 第 I 欄 国際予備審査報告の基礎</li><li>第 I 欄 優先権</li><li>第 II 欄 新規性、進歩性又は産業上の利用可能性についての国際予備審査報告の不作成</li><li>第 IV 欄 発明の単一性の欠如</li></ul>				
図 第V欄 PCT35条(2)に規定する新規性、進歩性又は産業上の利用可能性についての見解、それを裏付けるための文献及び説明				
<ul><li>※ 第VI欄 ある種の引用文献</li><li>□ 第Ψ欄 国際出願の不備</li><li>□ 第Ψ欄 国際出願に対する意見</li></ul>				
国際予備審査の請求書を受理した日 20.07.2004	国際予備審査報告を作成した日 12.11.2004			
名称及びあて先	特許庁審査官(権限のある職員) 4 C 9736			
日本国特許庁 (IPEA/JP) 郵便番号100-8915 東京都千代田区設が関三丁目4番3号	荒木 英則			

#### 特許性に関する国際予備報告

国際出願番号 PCT/JP03/15821

第I欄 報告の基礎				
1. この国際予備審査報告は、下記に示す場合を除くほか、国際出願の言語を基礎とした。				
□ この報告は、				
2. この報告は「記の出版資類を基礎とした。 (伝第6条 (FCII4条) の別定に基づく明节に応答するために提出された た差替え用紙は、この報告において「出願時」とし、この報告に添付していない。)				
× 出願時の国際出願事類				
明細售       ページ、出願時に提出されたもの         第       ページ*、 付けで国際予備審査機関が受理したもの         第       ページ*、 付けで国際予備審査機関が受理したもの				
請求の範囲       項、 出願時に提出されたもの         第       項*、 PCT19条の規定に基づき補正されたもの         第       項*、 PCT19条の規定に基づき補正されたもの         第       何けで国際予備審査機関が受理したもの         第       付けで国際予備審査機関が受理したもの				
図面       第				
□ 配列表又は関連するテーブル 配列表に関する補充欄を参照すること。				
3.				
4. □ この報告は、補充欄に示したように、この報告に添付されかつ以下に示した補正が出願時における開示の範囲を超えてされたものと認められるので、その補正がされなかったものとして作成した。 (PCT規則70.2(c)) □ 明細審 第 ページ 項 図面 第 ページ/図				
■ 配列表(具体的に配載すること)				

#### 特許性に関する国際予備報告

国際出願番号 PCT/JP03/15821

		1	
新規性(N)	請求の範囲 請求の範囲	1-22, 24, 25 23, 26-33	有 無
進歩性(IS)	請求の範囲	1-22, 24, 25 23, 26-33	
産業上の利用可能性(IA)	請求の範囲 請求の範囲	1-33	
. 文献及び説明(PCT規則7	70. 7)		
文献1:FR 277202 文献2:EP 906901 文献3:WO 98/056 文献4:WO 97/376 文献5:WO 95/053 文献6:EP 309766	7 A (FOURNIER INDUST A2 (AJIMNOMOTO CO., 34 A1 (KANEKA CORP.) 65 A1 (BANYU PHARM. 74 A1 (BANYU PHARM. A2 (BANYU PHARM. CO ed. Chem., 2002, 10	CO., LTD.) CO., LTD.) CO., LTD.)	4 <i>い</i> る。 ・
○請求の範囲23,2	26-33について 開婁 (特に実施例) に	には、本願の式(10)、(11)又は	- (19) マスキニチ
文献1から7の明約 れる化合物が記載され	いている。 D範囲23,26-3	3 に係る発明は、文献1から	

#### 特許性に関する国際予備報告

国際出願番号 PCT/JP03/15821

	第VI和	図 ある種の引用文献	· ·		
	1.	ある種の公安された文書(PCT規	則70. 10)	· :	
		出願番号 特許番号	公知日 (日.月.年)	出願日 <u>(日.月.年)</u>	優先日(有効な優先権の主張) (日.月.年)
•		JP 2003-295 「EX」	07. 01. 2003	29. 06. 2001	19. 04. 2001
	:		٠		

#### 2. 魯面による開示以外の開示 (PCT規則70.9)

書面による開示以外の開示の種類	書面による開示以外の開示の日付	<b>磐面による開示以外の開示に官及している</b>
	(日.月.年)	書面の日付(日.月.年)